(3) (8)

CA-152

Division Bench

IN THE HIGH COURT OF (CHHATTISGARH) AT BILASPUR

MISC. APPEAL (C) No. 209 /2006

APPELLANT : Chhote Lal Dewangan, S/o. Late Ballu Sao Dewangan, aged about 52 years, R/o. Kaystha Para, Ward No.5, Dr. Nathu Prasad Tiwari, Behind by X-ray Clinic Durg, Thana-Mohan Nagar, Tahsil and Distt. Durg, (C. G.)

CLAIMANT

P.R. No. 3898/06
Presented by Shri Bhagwati Kaushamiya
dated 21/12/06

V E R S U S

RESPONDENTS :1) Anil Kumar Sahu,
S/o. Anand Ram Sahu,
aged about 35 years,
DRIVER

2) Anand Ram Sahu, S/o. Punou Ram Sahu, aged about 60 years,

Both R/o. Qr. No. F/32, C. G. Rajya Vidyut Mandal Colony Bhilai-3, Tahsil and District Durg (C. G.)

3) The Branch Manager,
The New India Insurance Company Ltd. Power House,
Oppo. Project Automobiles,
Bhilai, P. S. Chhawani,
Tahsil and Distt. Durg (C. G.)

INSURER

MEMO OF MISC. APPEAL (C) U/S 173 OF THE MOTOR VEHICLE ACT 1988.

HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : Hon'ble Shri H.L. Dattu, CJ &
Hon'ble Shri V.K. Shrivastava, J

MISC. APPEAL (C) NO. 209 OF 2007

APPELLANT: Chhote Lal Dewangan

Versus

RESPONDENTS: Anil Kumar Sahu and others.

Present : Shri Jitendra Gupta, counsel for the appellant.
None for respondents.

ORAL ORDER

(Passed on 15th February, 2007)

The following oral order of the Court was passed by Vijay Kumar Shrivastava, J.

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 (henceforth, "the Act, 1988") filed by the claimant/appellant for enhancement of compensation against the award dated 31/07/2006 passed by XI Additional Motor Accident Claims Tribunal, (F.T.C) Durg (henceforth, "the Tribunal") in Claim Case No. 41/2006, whereby he has been allowed a compensation of Rs.7,500/-.

2) The factual matrix of the case, in brief, is that on 29/03/2004 when the appellant/claimant along with other persons was coming back from Kokha to Durg, on Marshal Jeep bearing No, CG/07/ZD/1325, the driver of the vehicle driving it in a rash and negligent manner dashed it against the tree, resultantly appellant sustained injuries. Respondent No.1 is the driver of the vehicle, respondent No.2 is owner and vehicle was insured with respondent No.3. Appellant filed an application under Section 166 of the Act, 1988 for grant of compensation against the respondents.

Respondents No.1 and 2 remained ex parte in the case, whereas respondent No.3 contested the claim.

3) Learned Tribunal appreciated evidence adduced by the claimant and vide impugned award allowed a total compensation of Rs.7,500/-.

4) Learned counsel for the appellant contended that the Tribunal has not awarded any amount towards medical expenses and towards loss of future income.

5) Appellant in his evidence conceded the fact that he being an employee of Bhilai Steel Plant received medical treatment free of cost, evidently in absence of expenditure incurred by him towards medical expenses he was not entitled to receive any amount towards this head. Appellant did not examine any medical officer in support of his injuries. He did not produce any discharge certificate to establish his admission in any hospital. Learned Tribunal perusing Annexure P/5 hold that he received two injuries. In absence of evidence to support loss of income, no amount can be allowed towards it in view of his two minor injuries. Evidently the sympathy played a role in allowing compensation of Rs.7,500/- to the claimant.

5) In the facts and circumstances of the case and evidence available on record, we do not find any illegality or infirmity in the finding recorded by the Tribunal. Accordingly, the appeal is liable to be dismissed and is accordingly dismissed.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Judge

Raju